



ADUR DISTRICT COUNCIL

Adur Joint Strategic-Sub Committee
1 February 2024

Key Decision: No

Ward(s) Affected: Southwick Green

Approval of budget to complete Albion Street housing development

Report by the Director for Place

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Executive Summary

1. Purpose

- 1.1. The report seeks approval of, a budget to complete and virement of £1.776m from capital budgets currently applied to the Small Sites project.
- 1.2. The report sets out the background to this project which has been under construction since March 2021 but which has now stalled due to the contractor's insolvency in August 2023.
- 1.3. It outlines the options which have been considered to ensure it is completed in the most timely and cost effective manner possible, and sets out the financial implications.

2. Recommendations

- 2.1. To approve the virement of a budget for this project of £1.776m to enable the project at Albion Street to be completed. We will look to claim £998k back through an insolvency bond.

- 2.2. To note the net increase in budget to cover the additional cost of completing the project of £778,000, and that the project remains viable even with the additional spend.
- 2.3. To delegate authority to the Director for Housing and Communities to enter into all necessary contracts and associated legal documentation to enable the project to progress through the remaining construction phase to completion.

3. Context

- 3.1. The contract for the construction of the 49 flats for social rented housing was terminated in September 2023 following the insolvency of the main contractor, Westridge Construction. Although work on the buildings was around 90% complete at this point, there is substantial work left to do to complete cladding, balconies and external works, as well as completing the internal fit out and mechanical and electrical installations. Deterioration of the building as a result of leaks and spread of condensation while the buildings have been vacant has exacerbated the position.
- 3.2. The cost of work to complete the buildings will exceed the original approved scheme budget however there is an insolvency bond in place for 10% of the value of the contract (£997,830) which, subject to the claim being accepted by insurers, will cover most of the additional cost. Negotiations with the insurers have commenced however full details of the scope and costs of work to complete is needed before a formal claim can be made. The insurers have confirmed that, due to the termination on grounds of insolvency, we are within our rights as part of the bond conditions to make a claim.
- 3.3. Contractor Cheesmur has been appointed for an initial stage of work to ensure the site is safe, heating and ventilation systems are operating and urgent roof repairs can be carried out. At the same time, negotiations with Cheesmur for the full completion contract have progressed and approval to let the first part of the contract under the existing project budget was given by the Director for Housing under delegated authority.

4. Issues for consideration

4.1. Project background

- 4.1.1. The Albion Street project will provide 49 social rented flats in 2 blocks funded through a mix of Homes England funding, Right to Buy receipts, S106 contributions and capitalised rental income.
- 4.1.2. The building contract was let to Westridge construction following a competitive tender process and work started on site in March 2021. The project has been delayed by Covid, together with bad weather and drainage connection issues, and there was overall slow progress from the contractor who encountered a range of technical problems delivering this complex building. Although part of the delay was considered to be 'no fault' and an extension time was granted to December 2022, damages for late completion were being deducted from payments at the point the contract was terminated.
- 4.1.3. Westridge's most recent programme showed a completion date of late October 2023 however it was doubtful this would be achieved. They then became insolvent in August 2023 and the building contract was terminated on 28th September 2023.

4.2. Contract termination

- 4.2.1. On termination of the contract the site was secured, and contact was made with the administrators, and the insurance company who provided the insolvency bond.
- 4.2.2. An assessment of Health and Safety on site was carried out and urgent work commissioned to ensure the site was not a risk to the public and those who needed to access it.
- 4.2.3. Options for completing the work were considered. Contact was made with each of the main subcontractors to seek a cost for completing the work under a new contractor to be appointed.

4.3. Procurement of a contractor

- 4.3.1. The Assistant Director: Legal & Democratic Services has advised that a direct award under Contract Standing Orders paragraph 5.6 and public contract regulation 32(c) can be made due to the urgent need to complete the work.
- 4.3.2. Following legal advice, the work is to be let as a 'Management Contract' whereby final costs of the works packages are negotiated with the subcontractors and approved as figures are

agreed. Discussions to date have allowed work to progress on major elements such as roof, cladding and balconies, while prices for internal works are still under negotiation with subcontractors. Final figures for every aspect of the work will be agreed before each subcontract is let. The major subcontractors who were previously working on the scheme will be appointed for the work to allow a swift continuation and retain building warranties in place.

- 4.3.3. We have worked closely with J. Cheesmur Building Contractors in an open book manner to seek best prices for completion from key subcontractors, and as stated above, the first part of the contract has been let - which includes the majority of the external works, balconies, cladding and windows, funded by the budget remaining when the contract was terminated. This paper requests an additional budget to allow us to finish the project by commissioning the second part of the works - mainly decorations and landscaping.
- 4.3.4. The cost of completion (summarised in Section 5) is to be vired from an underspend in the Hidden Homes budget; specifically, funding allocated to the delivery of the project at Prince Charles Close, a project which is dormant. The additional cost to complete Albion St (over that which can be drawn down through the bond) will be covered by this budget, as it is deemed more important to finish Albion Street than progress further small sites in the Hidden Homes programme.
- 4.3.5. The majority of the cost uplift (£500k) stems from an increase in interest payable on the borrowing. This is because (a) we have borrowed a large amount of money against the project to date and (b) interest rates have been increasing. However, due to the insolvency and subsequent pause in development activity, we currently have no way of paying down this debt. This is an important reason as to why the project needs completing as soon as possible.

4.4. Programme

- 4.4.1. It is anticipated that Phase 1 work (that already commissioned and covered by the remaining budget) will begin in February 2024, with Phase 2 (covered by the virement included within this

paper) commencing March 2024 with both phases complete by the Summer.

4.5. Engagement and Communication

- 4.5.1. There has been extensive liaison with colleagues in the finance, legal teams and housing about options for completing the scheme and officers have agreed the approach outlined above forms the optimal way to complete the project.
- 4.5.2. Homes England have been informed of the position and have confirmed that they will carry over the £2.4m funding into the 2024/25 financial year.
- 4.5.3. The cabinet member for housing has been consulted and has confirmed his support for the proposed solution. Informal cabinet meetings have been regularly updated on the position with the site.

4.6. Risks and mitigation

Risk	Mitigation
Building defects found resulting in additional work required	Full building survey is underway and will inform the pricing process
Subcontractor's costs higher than anticipated, and scheme is over budget agreed	Main costs to be agreed prior to letting contract. Open book approach on the remainder and ensure competitive tendering where possible. Contingency included in the budget requested.
Programme prolonged leads to delay in receiving rents and increased borrowing costs	Management contract will enable work to start in January. Positive project management approach to ensure subcontractor packages are let as soon as prices are agreed.
Contractor insolvency	10% bond to be put in place if available. Careful management of valuations

4.7 Capital Budget Requirement

- 4.7.1 It should be noted that the construction cost to complete shown is not a fixed cost at this stage. The figure is built up of confirmed prices from the main subcontractors (services, external envelope) together with estimates for the remaining work (internal decorations, fit out and landscaping). Therefore a contingency has been added to reflect the risk of price fluctuations.
- 4.7.2 The increased cost against the budget of completing the buildings is substantial. This is due to the fact that the original fixed price contract with Westridge was based on a tender from 2021, and construction cost inflation since then has been significant.

In addition, due to the prolonged period of construction and a rise in interest rates, the council's development interest cost has exceeded the budget originally allowed of £225k to an estimated £600k. £95k of interest costs are shown in the costs to date however the costs for 2023/4 and 2024/5 of £505k are included in the cost to complete.

4.7.4 Existing Budget

There is approximately £942,000 left in the budget previously approved at JSC.

Approved budget	£12,191,000
Construction costs to date	£9,365,954
Other costs to date	£1,882,710
Total costs to date	£11,248,664
Remaining budget:	£942,336

4.7.5 Anticipated Overall Completion Costs

Emergency works (under way)	£190,000
Main Works:	£1,750,000
Fees:	£80,650
S106 & car club:	£92,520
Development Interest	£505,000
Contingency	100,000
Total	£2,718,170

Anticipated income from Bond: £997,830

Total available from existing budget (as 6.1)	£942,336
Net Deficit:	£778,004

5. Financial Implications

- 5.1. A financial appraisal has been carried out in order to assess the project's viability in light of the new costs. The project being in an advanced stage of completion at the point of contractor failure means the completion of the project is an unavoidable expense. Due to the historic nature of the development costs and the grant the council have been able to leverage, even with the additional cost of the project it is anticipated that the project remains financially viable however not to such an extent as the original proposal.
- 5.2. The report asks members to approve the virement of £1.776m of capital budget to fund the completion of the Albion Street project, covering additional costs as set out in the report. Subject to the successful completion of the claim against the bond, it is anticipated that £997,830 of this additional spend will be recovered.

6. Legal Implications

- 6.1. Section 124 Local Government Act 1972 provides the Council with the power to acquire land or property and section 8 Housing Act 1985 places a duty of every local Housing Authority to consider housing conditions in their District and the needs of the District with respect to the provision of further housing accommodation.
- 6.2. Under Section 111 of the Local Government Act 1972, the Council has the power to do anything that is calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.
- 6.3. Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 6.4. Specialist legal advice in respect of the position in relation to the appropriate form of building contact has been obtained from external

legal advisors who are also advising on the approach to be taken in relation to the claim against the bond.

Background Papers

- Adur Homes development programme - Albion Street and Cecil Norris House - budget update JSC 11 February 2020:
<https://democracy.adur-worthing.gov.uk/documents/s1829/Item%209.pdf>
- Housing Development Programme - update and progress report JSC 4 December 2018:
<https://democracy.adur-worthing.gov.uk/Data/Joint%20Strategic%20Committee/201812041830/Agenda/media,151644,en.pdf>

Sustainability & Risk Assessment

1. Economic

The scheme cannot be left uncompleted and dormant. We will be reimbursed for the majority of the vired budget through the performance bond and with the additional spend the project remains viable.

2. Social

2.1 Social Value

Finishing this scheme will provide 49 flats for social rent, increasing Adur's stock of affordable housing considerably and providing homes to people on the housing register.

2.2 Equality Issues

Issue considered, no impact.

2.3 Community Safety Issues (Section 17)

Issue considered, no impact.

2.4 Human Rights Issues

Issue considered, no impact.

3. Environmental

Issue considered, no impact.

4. Governance

Delivering the project aligns with the Council's 'Our Plan', namely the ambition for everyone to have a safe, secure and sustainable home.